

Entered on Docket

April 25, 2022

EDWARD J. EMMONS, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA



Signed and Filed: April 25, 2022

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5 HANNAH L. BLUMENSTIEL
6 U.S. Bankruptcy Judge

7 UNITED STATES BANKRUPTCY COURT

8 FOR THE NORTHERN DISTRICT OF CALIFORNIA

9 In re:) Case No. 19-31024 HLB
10 RICHARD TOM,)
11 Debtor.)
12 MARK NG, KENDALL NG, and)
13 LORAIN WONG,) Adv. Proc. No. 19-3065 HLB
14 Plaintiffs,)
15 v.)
16 RICHARD TOM,)
17 Defendant.)

18 FIFTH ORDER REGARDING DISCOVERY DISPUTE

19 On April 15, 2022, the court entered its Fourth Order
20 Regarding Discovery Dispute,¹ which described correspondence the
21 court received from counsel for Plaintiffs Mark Ng, Kendall Ng,
22 and Loraine Wong concerning discovery disputes that had arisen
23 with third parties Justin Tom, Qiu Yue ("Winnie") Jiang, Giovanni
24 Torocca, and Marc Weismann. Shortly after the court received
25 Plaintiffs' counsel's letter, it received a response from Mr.
26 Weismann.

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28 ¹ Dkt. 82 (the "Fourth Order").

1 The Fourth Order required Mr. Weismann to appear for a
2 continued deposition prior to May 31, 2022 and set forth other
3 requirements concerning Mr. Weismann's production of documents
4 and the location at which his continued deposition should take
5 place. The Fourth Order also set a deadline of April 22 as that
6 by which Mr. Tom, Ms. Jiang, and Mr. Torocca should respond to
7 Plaintiffs' counsel's correspondence and warned that a failure to
8 timely respond would result in the court deeming the non-
9 responding party unopposed to the relief sought.

10 The court received timely responses from Messrs, Tom and
11 Torocca; Ms. Jiang did not respond. Through counsel, Mr. Torocca
12 disputes Plaintiffs' counsel's assertion that he failed to appear
13 for a deposition, contending that Plaintiffs' counsel failed to
14 provide a link for the intended video deposition. Mr. Torocca
15 represents that he is willing to appear for an in-person
16 deposition, which he asks take place in May 2022 to accommodate
17 his counsel's trial schedule.

18 Mr. Tom disputes that he was ever properly served with a
19 deposition or document subpoena, although he concedes that "[m]y
20 younger brother was given a copy of a subpoena at some point."
21 He then proceeds to refute the merits of certain of Plaintiffs'
22 allegations concerning his involvement in a scheme to
23 fraudulently transfer assets for the purposes of hindering
24 Plaintiffs' efforts to collect a judgment they obtained against
25 Justin Tom's father, Richard Tom. He claims that Plaintiffs'
26 counsel is "intentionally harassing" him "because they have
27 failed to get the answers they want from Richard Tom," and he
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1 opposes having to "sit for any further deposition in this or any
2 other litigation involving the judgment against Richard Tom."

3 Having carefully considered the responses it received, the
4 court **ORDERS** as follows:

5 **1.** As to respondent Qiu Yue ("Winnie") Jiang, the court
6 hereby deems her unopposed to Plaintiffs' counsel's request for
7 an order compelling Ms. Jiang to appear for a further deposition
8 and to produce documents in advance of such deposition. The
9 court hereby **ORDERS** Ms. Jiang to appear for a further deposition
10 on a mutually agreeable date no later than **June 30, 2022**. The
11 court further **ORDERS** Ms. Jiang to produce at least 5 business
12 days prior to her continued deposition any and all documents
13 within her possession, custody, or control that are responsive to
14 the subpoena with which she was previously served. Ms. Jiang's
15 continued deposition shall take place in-person, in the offices
16 of Plaintiffs' counsel, and shall last no longer than 7 hours of
17 time on the record. To the extent Plaintiffs' counsel requests
18 leave to file a motion for sanctions as to Ms. Jiang, that
19 request is hereby **DENIED** pending Ms. Jiang's cooperation with
20 this order. If Ms. Jiang fails to comply in good faith with this
21 order, Plaintiffs' counsel may renew their request for leave to
22 file a motion for sanctions.

23 **2.** As to respondent Giovanni Torocca, the court hereby
24 **ORDERS** Mr. Torocca to appear for deposition on a mutually
25 agreeable date on or prior to **May 31, 2022**. The court further
26 **ORDERS** Mr. Torocca to produce at least 5 business days prior to
27 his deposition any and all documents within his possession,
28 custody, or control that are responsive to the subpoena with

1 which he was previously served. Mr. Torocca's deposition shall
2 take place in-person, in the offices of Plaintiffs' counsel, and
3 shall last no longer than 7 hours of time on the record. To the
4 extent Plaintiffs' counsel requests leave to file a motion for
5 sanctions against Mr. Torocca, that request is hereby **DENIED**
6 pending Mr. Torocca's cooperation with this order. If Mr.
7 Torocca fails to comply in good faith with this order,
8 Plaintiffs' counsel may renew their request for leave to file a
9 motion for sanctions.

10 **3.** As to respondent Justin Tom, the court **ORDERS**
11 Plaintiffs' counsel to serve Mr. Tom with a deposition and
12 document subpoena no later than **April 29, 2022**. Plaintiffs'
13 counsel shall serve such subpoena by email to
14 justinctom@gmail.com and by first class mail to 2710 Melendy
15 Drive, Apt. 8, San Carlos, CA 94070. Service of such subpoena in
16 compliance with this order shall constitute valid service. Such
17 subpoena shall set Justin Tom's deposition for a date on or prior
18 to June 30, 2022 and the court hereby **ORDERS** Plaintiffs' counsel
19 and Justin Tom to meet and confer in good faith as to an
20 acceptable date for such deposition. Justin Tom's deposition
21 shall take place in-person, in Plaintiffs' counsel's offices, and
22 shall last no longer than 7 hours of time on the record. The
23 court hereby **ORDERS** Justin Tom to produce at least 5 business
24 days prior to his deposition any and all documents within his
25 possession, custody, or control that are responsive to the
26 subpoena required by this order. To the extent Plaintiffs'
27 counsel requests leave to file a motion for sanctions against
28 Justin Tom, that request is hereby **DENIED** pending his cooperation

1 with this order. If Justin Tom fails to comply in good faith
2 with this order, Plaintiffs' counsel may renew their request for
3 leave to file a motion for sanctions.

4 **4.** The court **ORDERS** that the current fact discovery
5 deadline of April 1, 2022² is suspended pending completion of the
6 discovery required by this order.

END OF ORDER

28 | ² Dkt. 44.

Court Service List

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